

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ALBERT ANTHONY CARAIG,

Petitioner,

2:01-cv-2066-GEB-PAN-P

vs.

JOE McGRATH, Warden,

Respondent.

ORDER

Petitioner, a state prisoner proceeding pro se, has timely filed a notice of appeal of this court's July 17, 2006, denial of his application for a writ of habeas corpus. Before petitioner can appeal this decision, a certificate of appealability must issue. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

A certificate of appealability may issue under 28 U.S.C. § 2253 “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). The court must either issue a certificate of appealability indicating which issues satisfy the required showing or must state the reasons why such a certificate should not issue. Fed. R. App. P. 22(b).

////

////

1 For the reasons set forth in the magistrate judge's May 17, 2006, findings and
2 recommendations, petitioner has not made a substantial showing of the denial of a constitutional
3 right. Accordingly, a certificate of appealability should not issue in this action.

4 IT IS SO ORDERED.

5 Dated: August 17, 2006

6
7 /s/ Garland E. Burrell, Jr.
8 GARLAND E. BURRELL, JR.
9 United States District Judge
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26